

WARRANT
COMMONWEALTH OF MASSACHUSETTS
COUNTY OF BERKSHIRE, SS.
TOWN OF MONTEREY

To: Raymond W. Tryon, Constable of the Town of Monterey in the County of Berkshire,

Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn inhabitants of said Town qualified to vote in Town affairs to meet in the Firehouse of the Monterey Fire Company Ltd. in said Town on April 2, 2009, at 7pm o'clock in the evening, then and there to act on the following articles:

ARTICLE 1. To see if the Town will vote to authorize any Town board to appoint any member thereof to another office or position for the term provided by law (if any), otherwise for the term not to exceed one year, and to fix the salary and compensation in accordance with Massachusetts General Laws Chapter 41, Section 4A, or take any other action relative thereto.

ARTICLE 2. To see if the Town will accept Massachusetts General Laws Chapter 143, § 3Z, and allow any part time inspector of buildings, building commissioner, local inspector or alternate inspector to practice for hire or engage in the business for which he is certified, licensed or registered under the building code, while serving as such inspector; provided, however, that within the area over which he has jurisdiction as inspector or alternate inspector, he shall not exercise any of his powers and duties as such inspector, including those of enforcement officer of the state building code for the construction, reconstruction, alteration, repair, demolition or removal work done by himself, his employer, employee or one employed with him.

The inspection of such work shall be performed by the inspector of buildings or building commissioner of another city, town or district or by a special assistant inspector of buildings or assistant building commissioner who is appointed solely for the purpose of performing such inspections by the mayor of a city, the board of selectmen of a town or the governing board of a district.

This section shall take effect upon its acceptance by vote of town meeting.

ARTICLE 3. To see if the Town of Monterey will vote to amend the following sections of the zoning by-laws by

- a. deleting the words "Bylaw" or "bylaw" located anywhere in the Monterey Zoning by-laws and replacing them with "by-law"
- b. deleting all the words "single-family" located anywhere in the Monterey Zoning by-laws and replacing the word with "single family"
- c. deleting all the words "multi family" located anywhere in the Monterey Zoning by-laws and replacing the word with "multi-family"
- d. deleting all the words "non-conforming" located anywhere in the Monterey Zoning by-laws and replacing the word with "nonconforming"
- e. deleting all the words "set-back" located anywhere in the Monterey Zoning by-laws and replacing the word with "setback" or take any other action relative thereto.

ARTICLE 4. To see if the Town of Monterey will vote to amend the zoning by-laws of the Town by deleting the header in Section VII "3. Signs Not Requiring Permits:" and replacing it with a header entitled "4. Signs Not Requiring Permits:", or take any other action relative thereto.

ARTICLE 5. To see if the Town of Monterey will vote to amend the zoning by-laws of the Town by adding a new Use Category for “Camp and/or Recreational Facility, Seasonal or Year Round”, as follow, or take any other action relative thereto:

amend Section II. Definitions, by adding a new definition as follows:

“Camp and/or Recreational Facility, Seasonal or Year Round: A land use in operation either seasonally or year round, for guests and staff, which provides for organized athletic and/or recreational activities, meetings, functions, events, and including common kitchen and dining facilities, and sleeping quarters in dormitories or separate cabins. One single family dwelling may be provided for the purpose of administration or owners’ residence.”

and amend Section IV.B.2. by adding the following subsection:

“e. (1) Camp and/or Recreational Facility, Seasonal or Year Round”

and amend Section IV.D.2. by adding the following subsection:

“c. Camp and/or Recreational Facility, Seasonal or Year Round”

ARTICLE 6. To see if the Town of Monterey will vote to amend the zoning by-laws by adding a new Use Category for “Common Driveway” as follows, or take any other action relative thereto.

Amend Section II, Definitions by adding the following:

Common Driveway: A private way shall be considered a common driveway when said road is used to provide access to two, three or four lots. A common driveway will begin where it accesses public ways or suitable private ways, and ends at the property line of the last lot being accessed.

Amend Section VII. by adding the following:

Section VII. H. Common Driveway

General Regulations

The purpose of this by-law is to encourage the use of common driveways in the Agricultural-Residential District and the Lake Shore District: 1) in order to minimize the frequency of curb cuts along town ways; 2) provide for the safest possible locations for curb cuts; 3) avoid or minimize the need for alterations of wetlands, tree lines, and stone walls; 4) minimize the amount of impervious surfaces created by driveways providing access to dwellings; and 5) provide standards for safe driveways that are adequate for access by emergency vehicles and delivery vehicles such as home heating oil.

A private way shall be considered a common driveway when said road is used to provide access to two, three or four lots. A common driveway will begin where it accesses public ways, or suitable private ways, and ends at the property line of the last lot accessed.

Any common driveway in existence prior to the date of this by-law shall not be subject to these regulations.

A common driveway providing access to two lots shall be allowed by right.

A private way accessing five (5) or more lots shall be considered a subdivision road and must be approved under the Subdivision Control Regulations.

A common driveway shall be connected to a public way, or a suitable private way, at one and only one point. No common driveway shall be allowed within one hundred (100) feet of the intersection of public ways. A common driveway shall provide access to the lots from the way on which the lots accessed have their frontage.

Approval of a common driveway does not constitute acceptance of said common driveway as an approved town road. Common driveways do not constitute road frontage,

and each lot served by a common driveway must meet all the requirements of the Zoning By-laws. Issuance of a permit to construct a common driveway does not constitute a Building Permit by right.

A common driveway approval does not preclude the necessity for an applicant to apply for and obtain a curb cut from the Department of Operations and to comply with all curb cut regulations.

Each lot served by the common driveway shall have permanent access to the common driveway pursuant to an Easement Agreement that runs with the land.

Any deeds or ownership of lots served by a common driveway shall require that the owners of said lots be members of a maintenance association, whose purpose is to provide for maintenance of the common driveway, which shall include, but not be limited to, snow plowing, road maintenance, maintaining drainage structures and other components of the driveway necessary to provide safe and adequate access to the lots. This maintenance association must be created by a Maintenance Association Agreement.

The Easement Agreement, Maintenance Association Agreement, and Form A plan showing the common driveway that has been endorsed by the Planning Board, shall be recorded with the Southern Berkshire Registry of Deeds or Land Court where appropriate. The Form A Plan shall provide space for two endorsements, one for the Form A endorsement "Approval Not Required", and the second for the Planning Board's approval of the common driveway.

The Director of Operations shall be the enforcement officer of the Common Driveway Bylaw.

Application for approval of a common driveway

All applications for a common driveway shall be accompanied by the following:

1. An application form completed by the applicant.
2. There shall be an application fee as determined by the Monterey Planning Board.
3. Engineered plans showing the location of the proposed common driveway, along with design details of the proposed way, including grades, width and drainage.
4. A proposed Maintenance Association Agreement and a proposed Easement Agreement.
5. A copy of the proposed lot plan showing the lots to be served by the common driveway and including the metes and bounds of the common driveway easement.
6. The applicant shall file three copies of the application documents with the Planning Board. In addition, the applicant shall file one copy with the Town Clerk, Conservation Commission, Fire Department, Building Commissioner, and Director of Operations for review and comment.

Application and approval of a common driveway does not preclude the need to obtain any and all other necessary permits and approvals from the Conservation Commission for wetlands and/or the Scenic Mountains Act, Curb Cut Approval from the Director of Operations, and any other necessary permits and approvals.

Design and Construction Standards

The common driveway must meet the following design and construction criteria. The Planning Board may impose additional conditions depending on the topography and other site conditions.

1. Common driveways shall be located to take into consideration the intersection with the frontage road, sight distance conditions, topography, and minimizing impacts on wetlands, tree lines, stone walls, and stream crossings.
2. The traveled portion of the private way shall be a minimum of twelve (12) feet of wear surface plus a two (2) foot wide shoulder on each side of the roadbed.

3. The final surface of the roadbed shall have a minimum of eight (8) inches of gravel over a suitable sub grade.
4. The length of a common driveway shall not exceed 1000 feet.
5. Construct turnouts to allow emergency vehicles to pass at intervals of no more than 400 feet. Turnouts shall be at least 35 feet long plus tapers at each end, and create a traveled width of at least 18 feet wide. A branching driveway with adequate width and geometry may serve as an acceptable alternative to a turnout.
6. No driveway shall exceed an average grade of 10% nor have a maximum grade at any point exceeding 12%.
7. The common driveway shall have a minimum centerline radius of at least 40 feet.
8. A sign with the house numbers of the lots served by the common driveway shall be installed at the intersection with the frontage road in accordance with State and Town laws.
9. The Director of Operations shall be the Planning Board's agent for review of the Common Driveway during construction. The common driveway shall be constructed sufficiently to provide access to a building lot before the issuance of a building permit for a structure on said lot.
10. At its option, the Planning Board may require that the applicant provide a covenant or other financial performance guarantee to assure completion of the common driveway prior to the issuance of a certificate of occupancy. The performance guarantee shall be in a form acceptable to Town Counsel.
11. The work shall conform to the approved plans and any special conditions in the Planning Board's permit. Any proposed change to the approved plans or permit conditions shall require the applicant to inquire of the Planning Board in writing whether the change is significant enough to require the filing of a new Permit Application. Upon completion of the work, the applicant shall submit a Request for Certificate of Completion to the Director of Operations.
12. Upon satisfactory completion of construction, the Director of Operations shall issue a Certificate of Completion that said Common Driveway has been constructed in accordance with approved plans and permit conditions. No Certificate of Occupancy for a building on the lot served by the Common Driveway shall be issued until the Director of Operations has issued said Certificate of Completion. The Director of Operations may halt any construction not done in accordance with the approved plans.

Final Decision

When deciding whether or not to approve plans for a common driveway, the Planning Board shall consider:

1. The safety of the common driveway as designed for normal use.
2. The safety of the intersection with the Town way. See Regulations for Access to Public Ways.
3. The adequacy of the legal requirements for maintenance and access.
4. The adequacy of the common driveway to provide access for emergency vehicles.
5. Compliance with the purposes of the Common Driveway Bylaw.

The Planning Board in making its findings shall consider comments and reviews by the Town of Monterey Director of Operations, the Fire Department, and the Conservation Commission.

The approval of plans under this bylaw does not constitute a waiver of any other applicable bylaw or statute.

The Planning Board may waive strict compliance with the design or construction criteria upon a clear showing that the waiver will not adversely affect public safety or derogate from the intent and purpose of this bylaw.

If the Planning Board fails to act on a completed application for approval of a common driveway within 45 days it shall be deemed to have been approved.

Hereof fail not and make return of this Warrant with your doings thereon to the Clerk of said Town at or before the time of said meeting.

Given under our hands and the seal of the Town of Monterey this 16th day of March, 2009.

Wayne Burkhart, Chair

Scott Jensen

Jonathan Sylbert
MONTEREY SELECT BOARD